

REMARKS

Applicant respectfully requests reexamination and reconsideration of claims 1-27, as amended, in view of this amendment and the following:

"Adapted to" is a positive limitation that cannot be ignored in considering patentability of claim.

Applicant notes the reliance in the action on a 1946 CCPA case, *In re Hutchinson*, 69 USPQ 138, for the conclusion that "adapted to" perform a function is not a positive limitation. However, the phrase in *Hutchinson* appeared in the preamble of the claims, and, as with preambles in general, the preamble to a claim may or may not constitute a limitation in a claim. In later cases, "adapted" in the body of the claim has been held to be a positive limitation which cannot be ignored in considering the patentability of the claim. For example, in *Ex parte Conner*, 215 USPQ 384 (PTO Bd. App. 1981), the Board held that:

The characterization in the claims that the compositions are "adapted for application to the human skin" imposes a limitation which cannot be ignored in considering the patentability of the claims.

Thus, as Applicant points out below, having an element, e.g., the flange in his, for example, Claim 2, adapted to support one end of a flexible conduit, is submitted to be a positive limitation, which cannot be ignored in considering the patentability of the claim.

Rejection of Claims Under 35 USC 103(a) based on Charushia, et al. in View of Hull

In the Office Action of October 6, 2005, claims 1, 2, 7, 8, 11, 13, 22 and 27 were rejected under 35 USC 103(a) as being unpatentable over Chaurushia et al. in view of

Hull. The Examiner asserts that Chaurushia et al. discloses all of the limitations of the claim(s) except for adjustable supports, with Hull disclosing the latter.

Applicant respectfully submits that neither Chaurushia et al. nor Hull disclose all of the limitations of the above listed claims. Chaurushia et al. does not disclose or suggest the at least one flange extending outwardly with respect to at least one of the apertures extending outwardly with respect to at least one of the apertures in the front and side in Applicant's claim 1, nor with respect to both front and side apertures in Applicant's claim 7.

Additionally, Chaurushia et al. does not disclose Applicant's outwardly extending flange from at least one of the front and side apertures adapted to support one end of a flexible conduit as required in Claim 2. On the contrary, Chaurushia et al. teaches that conventional clamps 20, 22 (Fig. 2) retain ends of each hose 14 to each housing inlet 16 on the top of the apparatus 10, and that straps 26 and support 24 support the hoses. Because reference numeral 22 of Chaurushia et al. refers to a conventional clamp, it is submitted that disclosure of a clamp does not teach or suggest Applicant's requirement of an outwardly extending flange from at least one aperture in the front or side, or both, of Applicant's fume exhauster and dryer.

Finally, Applicant points out that in the bottom paragraph of page 2 of the Action, it is stated that Chaurushia et al. in view of Hull "discloses all of the limitations of the claim(s) except for a flange". In view of this statement, it is submitted that the rejection of claims 1, 2, 7, 11, 13, 22 and 27 based on Chaurushia et al. in view of Hull has been admitted to be without support, and its withdrawal is in order and is requested.

Rejection of Claims 3-6, 9, 10 and 19-21 based on Chaurushia Et al. in View of Hull in Further View of Nordlin

In the statement of the rejection of claims 3-6, 9, 10 and 19-21, as unpatentable over Chaurushia et al. in view of Hull and in further view of Nordlin, it is asserted that Chaurushia et al. in view of Hull fails to disclose a flange extending as required in Applicant's claims. The Examiner points to element 74 of Nordlin as disclosing the presence of a flange. However, element 74 in Nordlin as described at Col. 6, lines 18-21, is taught to be a foraminous cover attached to bracket 76 "to create a camming action against a hose when the hose is inserted into the blower port 30." (emphasis added).

Therefore, it is clear from Nordlin that the reference does not teach a flange, but teaches away from Applicant's outwardly extending flange adapted to support a grille mounted thereto, by Nordlin teaching that a hose should be inserted into the port.

Furthermore, with regard to Applicant's claim 4, Nordon does not disclose: a grille removably mounted to a flange as required in Applicant's claim 4; a flange extending outwardly and adapted to support a grille, a conduit and a cover, as required in Applicant's claim 6; flanges extending from apertures in the front and side each adapted to support a grille as required in Applicant's claim 9; flanges each adapted to support a conduit and a grille as required in Applicant's claims 10 and 19; flanges extending from apertures in the side and rear each adapted to support a cover as required in Applicant's claim 20; and flanges extending from apertures in the front, side and rear portions, and each flange adapted to support a grille, a conduit and a cover as required by Applicant's claim 21.

**Rejection of Claims 14, 16-18 and 24 based
On Chaurushia et al. in view of Hull**

The several rejections of these several enumerated claims of Applicant on page 3 of the Action are all based on Chaurushia et al. in view of Hull. As Applicant pointed out above, and as admitted on the bottom of page 2 of the action, Chaurushia et al. in view of Hull does not disclose the limitation of having at least one flange extending outwardly with respect to at least one of the front and side apertures of the housing. Therefore, it is submitted that the cited combination of references do not make obvious Applicant's claims: 14, 16 and 17 (at least one flange with respect to front and side apertures); 18 (at least one flange with respect to front and side apertures, and a rear exhaust aperture and a flange extending outwardly with respect to the rear aperture); and 24 (front surface intake aperture and side and rear exhaust apertures, all with flanges extending outwardly therefrom adapted to support a grille and a flexible conduit). In view of the above, and particularly the admission that the combination of references fails to disclose the flange limitations required in these claims, it is submitted that the rejections are without support, and withdrawal of the rejections are therefore requested.

**Rejection of Claims 25-27 based on Chaurushia et al.
In view of Hull, and in further view of Wilkins**

The action (page 4) asserts that Churushia et al. in view of Hull discloses all of the claim limitations except for the filter support on the flange. Applicant has shown above where Chaurushia et al. in view of Hull fails to disclose all of the limitations of the claims in addition to the filter support, and where that failure is admitted in the Action (bottom of page 2).

In addition to Chaurushia et al. in view of Hull not disclosing the specified flange limitations of Applicant's claims 25 and 26, Wilkins fails to disclose Applicant's flanges and a filter support secured to a flange, as defined by claims 25-26, does not make the claims obvious, and withdrawal of the rejection is in order, and is requested.

Claim 27 has been amended to specify that the filter support is fixedly secured to the exhauster and dryer housing adjacent and with respect to the portion of the housing defining the exhaust aperture. Applicant submits that the amendment is supported by his specification, particularly at page 12, Paragraph 00035. Applicant respectfully points out with respect to claim 27, that Wilkins disclosing only temporary or releasably holding the filter support ring 2 to the housing by magnets, fails to disclose or suggest Applicant's fixed securement of the filter support to the exhauster and dryer.

Rejection of Claim 15 Under 35 USC 112

Claim 15 has been amended to eliminate the lack of an antecedent basis for "switch", by defining the term in the claim in accordance with the specification.

* * *

For the above reasons, it is respectfully submitted that Applicant has shown that claims 1-27 are not taught or suggested, and are not obvious to one skilled in the art at the time Applicant made his invention from the combinations of Chaurushia et al. in view of Hull, and in further view of Nordlin or Wilkins. Therefore, withdrawal of the rejections of claims 1-27 under 35 USC 103(a), and of claim 15 under 35 USC 112 is respectfully requested.

Respectfully submitted,

Date: February 21, 2006

Gerald S. Schur

Gerald S. Schur
WELSH & KATZ, LTD.
120 S. Riverside Plaza, 22nd Fl.
Chicago, IL 60606
(312) 526-1565 (direct line)
(312) 655-1501 (facsimile)
gsschur@welshkatz.com